



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

March 23, 1939

Hon. Geo. W. Cox
State Health Officer
Austin, Texas

Dear Sir:

Opinion No. O-515
Re: Effect of 1937 amendments
to the Vital Statistics
Law with particular refer-
ence to illegitimate birth.

Your request for an opinion as to the effect of the 1937 amendment to the Vital Statistics Law has been received.

In your letter dated March 16, 1939 you request that we answer three questions, to wit:

"1. Are the records filed under the 1927 law subject to the restrictions of the 1927 law, or relieved of such restrictions which were omitted in the 1937 Amendment?

"2. Should the State Registrar, in 1938 and subsequent years, attach to the original record the affidavit of the father changing the surname, etc., on the records filed prior to 1937?

"3. Should the State Registrar, in 1938 and subsequent years, issue a certified copy of the birth record of an illegitimate child filed in violation of the legal provisions in force at the time when that record was filed?"

The Vital Statistics Law, as contained in the 1924 Vernon's Codification of the Revised Civil Statutes, was listed as Rule 34 to 57 inclusive of Article 4477. In 1927 the First Called Session of the 40th Legislature passed Senate Bill 46, which purported to set up a Vital Statistics Law for the State of Texas, and by Section 24 of said Act the Legislature repealed Rules 34 to 57 inclusive of Article 4477 of the Revised Civil Statutes of 1925, Senate Bill 46 did not purport to amend any existing law, but was a complete law within itself, and did not depend upon any other statute or set of statutes. Section 14 of this Act related to birth certificates and the matter which they were to contain.

In 1929 the First Called Session of the 41st Legislature passed Senate Bill 20, which amended Sections 3, 4, 14 and 20 of Senate Bill 46, passed by the First Called Session of the 40th Legislature. The section of the 1929 Act which amended Section 14 of the 1927 Act added a new subsection to said Section 14, designated as subsection 25, and relating to the birth records and certificates of illegitimate children. Evidently this subsection is the one you refer to in your letter.

Senate Bill 46, Acts of the 40th Legislature, First Called Session, as amended by Senate Bill 20, Acts of the 41st Legislature, First Called Session, was codified in Vernon's Annotated Statutes as Rule 34a to 57a inclusive of Article 4477. Section 14 of said Senate Bill 46, as amended by Senate Bill 20, Acts of the 41st Legislature, First Called Session, was referred to as Rule 47a.

In 1937 the 45th Legislature passes House Bill 376, the title or caption of which reads as follows:

"An Act amending Rule 47a of Article 4477 of Title 71, Revised Civil Statutes of the State of Texas, 1925, by repealing subparagraphs 6 and 25 thereof; and declaring an emergency."

You will note that the caption of this Bill makes no reference to the original Act passed in 1927, nor to the 1929 amendatory Act, nor does it make any reference to the subject matter contained in the Bill. Article 3, Section 35 of the Constitution of Texas states that no Bill shall contain more than one subject, which subject shall be expressed in its title, and makes certain exceptions not pertinent to this opinion. The Supreme Court of this State has held that if articles amended are sufficiently identified by reference in the title of the amendatory Act, and the articles amended themselves indicate the purpose of the amendment, that the title of the amendatory Act is sufficient. *Scottish-American Mortgage Company v. Hardy* 55 S. W. 169; *Raymond Kibbe* 95 S. W. 727.

It is the opinion of this department that House Bill 376 passed by the 45th Legislature is invalid because it violates Section 35 of Article 3 of the Texas Constitution, in that its subject is not expressed in the title or caption of the Bill. The only reference made in the title of this Act is to an unofficial codification which is not recognized by the State of Texas, and is not a part of any official publication. The title of this Act refers to subsections of Article 4477, Revised Civil Statutes, 1925, which as a matter of fact do not exist in the 1925 codification. The attempted 1937 amendment is thereby rendered ambiguous and invalid. It follows that Senate Bill 46, passed by the First Called Session of the 40th Legislature as amended by Senate Bill 20, passed by the First Called Session of the 41st Legislature, is in full force and effect, including the

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provisions and restrictions with reference to the birth records and certificates of illegitimate children, and should be followed by your department without reference to or limitation by House Bill 376, Acts of the 45th Legislature, which you refer to in your letter as the 1937 amendment.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ross Carlton
Ross Carlton
Assistant

RC:ob;wc

APPROVED:

S/W. F. Moore
ATTORNEY GENERAL OF TEXAS